

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Matthew Starnes,

Civil No. 24-CV-4169 (DSD/SGE)

Petitioner,

v.

REPORT AND RECOMMENDATION

MCF Rush City Warden,

Respondent.

On November 12, 2024, the Clerk of this Court sent Petitioner Matthew Starnes a letter indicating that (1) the Court had not received either this action’s filing fee or an application to proceed *in forma pauperis* (“IFP”) in this action; (2) Starnes had 15 days (i.e., until November 27, 2024) to submit the fee or an application; and (3) if he failed to do so, his case “could be summarily dismissed without prejudice.” Dkt. No. 3 at 1. That deadline has passed without Starnes submitting the required fee or application. The Court therefore recommends dismissing this action without prejudice under Federal Rule of Civil Procedure 41(b) for failure to prosecute. *See, e.g., Henderson v. Renaissance Grand Hotel*, 267 F. App’x 496, 497 (8th Cir. 2008) (per curiam) (“A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff’s failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.”).

RECOMMENDATION

Based upon the foregoing, and on all of the files, records, and proceedings herein,
IT IS HEREBY RECOMMENDED that this action be **DISMISSED WITHOUT
PREJUDICE** under Federal Rule of Civil Procedure 41(b) for failure to prosecute.

Dated: December 17, 2024

s/ Shannon G. Elkins
SHANNON G. ELKINS
United States Magistrate Judge

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. *See* Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).